

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

PHILLIP FREDRICKSON,

Plaintiff,

v.

RICK WHITTEN, Warden,

Defendant.

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Case No. CIV-20-888-G

ORDER

This matter is before the Court for review of the Report and Recommendation (“R. & R.”) (Doc. No. 9) issued by United States Magistrate Judge Suzanne Mitchell pursuant to 28 U.S.C. § 636(b)(1)(B) and (C). Plaintiff, a state prisoner appearing pro se, brought this action under 42 U.S.C. § 1983. On October 8, 2020, Plaintiff filed a document titled “Motion to Dismiss Without Prejudice,” in which he requested that the Court dismiss the case without prejudice and return his filing fee. Pl.’s Mot. (Doc. No. 8) at 1.

On October 9, 2020, Judge Mitchell entered an R. & R. recommending that the Court construe Plaintiff’s filing as a motion for dismissal and additional court action under Rule 41(a)(2) of the Federal Rules of Civil Procedure. Judge Mitchell recommends that the Court dismiss the action without prejudice and return the \$350 filing fee to Plaintiff. *See* R. & R. at 3. Judge Mitchell informed Plaintiff of his right to object to the R. & R. and the consequences of failing to do so. *See id.* at 3-4. Plaintiff has not filed a written objection to the R. & R. within the allotted time period. Plaintiff has, however, filed three motions (Doc. Nos. 10, 11, 12) indicating his agreement with Judge Mitchell’s

recommendations. Finding that Plaintiff has waived further review of all issues addressed in the R. & R., *see Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991), the Court adopts the R. & R. in its entirety, as though fully set forth herein.

IT IS THEREFORE ORDERED that the Report and Recommendation (Doc. No. 9) is ADOPTED, Plaintiff's Motion to Dismiss (Doc. No. 8) is GRANTED, and this matter is DISMISSED without prejudice. *See* Fed. R. Civ. P. 41(a)(2). Plaintiff's subsequent Motions (Doc. Nos. 10, 11, 12) are DENIED as moot.

IT IS FURTHER ORDERED that the Clerk of the Court shall refund the \$350 filing fee in this matter to Plaintiff.

A separate judgment shall be entered.

IT IS SO ORDERED this 26th day of January, 2021.



CHARLES B. GOODWIN
United States District Judge